



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,069	09/21/2001	Wendell D. Willingham	17666 USA	4390

7590

06/09/2003

Howard G Bruss Esq
Owens-Illinois Inc
One SeaGate LDP #25
Toledo, OH 43666

EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART-UNIT

PAPER-NUMBER

3727

DATE MAILED: 06/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/960,069

Applicant(s)

WILLINGHAM ET AL.

Examiner

Nathan J. Newhouse

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-6 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5, 638,972) in view of Montgomery (US 5,785,196).

Druitt teaches a closure having a skirt with helically extending continuous or interrupted thread and an annular sealing fin 6 that engages both the rim and the side of the container finish as the sealing fin is folded upon applying the closure to the container. Druitt does not teach the barrier disc on the inwardly facing side of the top panel of the closure.

Montgomery teaches a similar linerless sealing closure for pressurized containers wherein the inwardly facing surface of the top panel of the closure can have a barrier disc 59 to reduce the diffusion of gas. See embodiment of figures 8-9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a barrier disc as taught by Montgomery on the inwardly facing surface of the top panel of the closure of Druitt to reduce the diffusion of gas.

3. Claims 2-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5,638,972) in view of Montgomery (US 5,785,196) as applied to claims 1 and 6 above, and further in view of Product Data Sheet of Daraform Exp. 5162-65EG.

Art Unit: 3727

Druitt, as modified above, teaches everything except for the barrier disc having an oxygen scavenging material and made the barrier disc with a primary ingredient of EVOH or LCP.

The Darex Container Products' Product Data Sheet of Daraform Exp 5162-65EG teaches that it is well known to utilize an oxygen scavenging material in combination with a barrier liner that is used for closing beverages in the closure art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the barrier disc of Druitt out of an oxygen scavenging material and the main ingredient of the barrier disc being EVOH or LCP to prevent diffusion while absorbing oxygen already within the container.

4. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5,638,972) in view of Montgomery (US 5,785,196) as applied to claims 1 and 6 above, and further in view of Richmond (US 6,095,359).

Druitt, as modified above, teaches everything except for the barrier disc having a primary ingredient of EVOH or LCP.

Richmond teaches that it is well known in the closure art to utilize a barrier material 13 made of EVOH. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize this material (EVOH) to make the barrier disc of Druitt.

5. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5,638,972) in view of Montgomery (US 5,785,196) and Richmond (US

Art Unit: 3727

6,095,359) as applied to claims 2 and 7 above, and further in view of Yamada et al. (US 5,143,763).

Druitt, as modified above, teaches everything except for the barrier disc having an oxygen scavenging material.

Yamada et al. teaches that it is well known to utilize an oxygen scavenging material in combination with a barrier liner that is used for closing beverages in the closure art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the barrier disc of Druitt out of an oxygen scavenging material to prevent diffusion while absorbing oxygen already within the container.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Braun, Painchaud et al. and the Japanese reference teach barrier discs/layers on closures similar to what applicant is claiming. Perchepped teaches a sealing fin similar to what applicant is claiming.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc.,

Art Unit: 3727

requests for copies of such papers or other general questions should be directed to

Tech Center 3700 Customer Service at (703) 306-5648, email

CustomerService3700@uspto.gov .


Any inquiry concerning the merits of the examination of the application from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov


Nathan J. Newhouse
Primary Examiner
Art Unit 3727

June 2, 2003